



## Property Tax Assessment Board of Appeals

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# Purpose of the Course

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- Duties of the Board
- Rules, regulations, procedures, case law, and IBTR decisions

DLGF does not give legal advice on upcoming appeals.



# Composition of the Board

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- County Assessor serves as Board Secretary
  - voting member, except where ordered to be recused by law (such as in an appeal of an assessment determination made by the county assessor). IC 6-1.1-15-1(k)
- Two individuals appointed by the fiscal body (County Council)
- Two individuals appointed by the County Commissioners
- IC 6-1.1-28-1



# Compensation of the Board

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- Compensation & policies are local issues.
- Board members shall receive compensation on a per diem basis for each day of actual service.
- The County Council shall fix the rate of compensation.
- The County Assessor shall keep an attendance record
  - Certifies the number of days to the County Commissioners.
- IC 6-1.1-28-3



# Powers of the Board

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The Board has the power to:

- Subpoena witnesses
- Examine witnesses, under oath, on the assessment or valuation of property
- Compel witnesses to answer its questions relevant to the assessment of valuation of property
- Order the production of relevant papers
- IC 6-1.1-28-9



# Field Reps & Hearing Examiners

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- The Board may hire additional field representatives and hearing examiners to assist the Board in performing its duties and functions.
- Representatives and Examiners must be Level II or III certified.
- The number and compensation of representatives and examiners employed are subject to the appropriations for that purpose by the County Council.
- IC 6-1.1-28-10



# Powers of the Examiners

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- Representatives and examiners are afforded the same powers as members of the Board concerning the review of and hearings on an assessment.
- Representatives and examiners shall report their findings to the Board in writing.
- The Board can accept the representatives and examiner's recommendation or hold further hearings and take additional evidence.
- The Board makes the final decision on each matter
- IC 6-1.1-28-11



# Power of the Examiners

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- Question: Can a taxpayer refuse to discuss the issues with a representative or examiner and request a hearing before the Board?
  - Answer: Yes. However, taxpayers may find that meeting with a representative or examiner will expedite the appeals process.





# Duties of the Board

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- Shall add to the assessment lists the correct assessed value of property (real and personal) that is undervalued or omitted.
- Shall do whatever else is necessary to make assessments comply with statutes and regulations.
- IC 6-1.1-13-3 & 4



# Duties of the Board

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- Question: Is it the job of the Board to find something wrong in every appeal so that the assessed value can be reduced for every taxpayer who is unhappy?
- Answer: No, decisions should be made based on the merits of the appeal and the evidence presented to the Board.



# Mass Appraisals v. Single-Property Appraisals

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- Mass appraisal = More than one property
  - the valuation of many properties as of a given date, using standard procedures and statistical testing
- Single-property appraisal = One property
  - the valuation of a particular property as of a given date
- Mass appraisals values may not be as precise as a single-property appraisal.



# Mass Appraisals v. Single-Property Appraisals

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- If most mass-appraised values for properties with sales fall within a predetermined average deviation from actual sales prices, work quality is considered good. The focus is not on the individual property.
- If a taxpayer disagrees with the assessment, he may challenge it.



# Appeals Before the Board

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- A taxpayer may obtain a review by the Board with respect to the assessment of the taxpayer's tangible property.
- To initiate the review, the taxpayer must file a timely notice in writing with the assessor.
- Notice must include:
  - the name of the taxpayer
  - the address & parcel or key number of the property
  - the address & phone number of the taxpayer.
- IC 6-1.1-15-1



# Appeals Before the Board

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- Appeal must be filed:
  - not later than 45 days from:
    - the date of the notice of assessment (e.g., Form 11; or if no Form 11, the tax bill); or
    - action on the deduction
  - May 10 if no notice of assessment is given
  - IC 6-1.1-15-1



# Board's Timeframe to Process

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- Hearing “not later than” 180 days after date of notice if:
  - the taxpayer and the assessor do not agree on the resolution of all assessment or deduction issues in the review
  - the PTABOA does not receive a form within 120 days after the date of the notice for review filed by the taxpayer
  - no informal preliminary meeting is held within 120 days after the date of the notice for review filed by the taxpayer



# Board's Timeframe to Process

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- The PTABOA shall, by mail, give notice of the date, time, and place fixed for the hearing to the taxpayer and the county or township official with whom the taxpayer filed the notice for review. (Form 114)
- The PTABOA may not require a taxpayer to file documentary evidence or summaries of statements of testimonial evidence before the hearing.





# Board's Timeframe to Process

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- Taxpayer may appeal to IBTR if hearing not held by PTABOA within 180 days of appeal
- Taxpayer may appeal to IBTR within 45 days of PTABOA decision



# Burden of Proof

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- A taxpayer must establish a “prima facie case” proving both:
  - the current assessment is incorrect; and
  - specifically what the correct assessment should be.
  - (See Meridian Towers East & West v. Washington Township Assessor – 805 N.E.2d 475)



# Prima Facie Case

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- Case in which the evidence is sufficient to establish a given fact and which, if not contradicted, will remain sufficient.



# Burden of Proof

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- Taxpayers who challenge an assessment simply by saying that their taxes are too high have not established a prima facie case
  - have not proven what the correct assessed value should be.
- Taxpayers who challenge the methodology or calculations often do not establish a prima facie case
  - have not proven what the correct assessed value should be.



# Burden of Proof

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- A property's market value-in-use, as determined using the Assessment Guidelines, is presumed to be accurate
- A taxpayer may challenge that presumption with evidence that is consistent with the Assessment Manual's definition of true tax value.



# True Tax Value Defined

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- “True tax value”  $\neq$  fair market value.
- “True tax value” = “market value-in-use” of a property for its current use, as reflected by the utility received from the property
- IC 6-1.1-31-6(c) & Manual.



# True Tax Value and Market Value-In-Use

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- Three generally accepted techniques to calculate market value-in-use:
  - cost approach
  - sales comparison approach
  - income approach
- The primary method used by assessing officials is the cost approach.



# Proof

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Evidence may include:

- A market value-in-use appraisal prepared according to USPAP
- Sales information for the subject property or comparable properties
- Other information compiled according to generally accepted appraisal principles.

**An appraisal is not required to file an appeal.**





# Burden of Proof

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- Taxpayer must explain how each piece of evidence relates to its requested assessment based on market value-in-use as of the relevant valuation date.
- It is the taxpayer's duty to walk the board through every element of the analysis.
- (See Indianapolis Racquet Club, Inc. v. Washington Twp. Ass'r 802 N.E.2d 1018)



# Burden of Proof

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- Once the taxpayer establishes a prima facie case, the burden shifts to the assessor to refute the taxpayer's evidence.
- (See American United Life Insurance Co. v. Maley 803 N.E.2d 276)
- Assessors can provide their own evidence to support their assessment or to challenge evidence presented by the taxpayer.



# Burden of Proof

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- An assessor cannot simply say that they reviewed the taxpayer's evidence and decided that it was not valid.
- They must be able to challenge it based on its merit and be able to demonstrate that the evidence lacks credibility.
- This challenge could be accomplished by identifying specific flaws in the taxpayer's evidence or by submitting evidence to demonstrate the flaws.



# Burden of Proof

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- Appraisals need to be analyzed to determine sales comparables being used in relationship to subject property. Adjustments being made to these sales comparables also should be analyzed.
- Comparable sales used in sales comparison approach should be in same market area as the subject property.



# Burden of Proof

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- Question: So how do I, as a Board member, decide that a prima facie case has been made?
- Answer: That decision must be determined on a case-by-case basis as the evidence and circumstances on each hearing will vary. Becoming familiar with the available resources could be very helpful.



# Board Resources

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Resources include:

- Indiana Codes
- DLGF Guidelines & Assessment Memorandums
- Indiana Tax Court Cases  
([www.in.gov/judiciary/tax/index.html](http://www.in.gov/judiciary/tax/index.html) - see Archives Tax Court Opinions)
- Indiana Board of Tax Review Decisions  
([www.in.gov/ibtr](http://www.in.gov/ibtr)-see Decisions; select month/yr)
- IAAO Publications & Courses
- Continuing Education Courses



# Board Resources

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- Reviewing decisions made by the Indiana Board of Tax Review (IBTR) may be the most helpful.
  - They analyze the facts and issues and apply the statutes, rules, and court rulings that support their decision.



# IBTR Example

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- Paul & Shirley Kinney v. Portage Twp. Assessor of St. Joe County
  - Mr. Kinney contended that his taxes were higher than comparable properties in the neighborhood.
  - The IBTR found that the Board must conduct an impartial review of the assessed value of the property and has no jurisdiction over local tax rates & budgets.





# IBTR Example

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- Ray & Lois Raufeisen v. Johnson County Assessor (3/1/06)
  - The taxpayer believes that his assessment is too high but only offers the purchase price that occurred 14 years ago as evidence.
  - The taxpayer failed to establish a prima facie case with market-based evidence as of the valuation date of January 1, 2005.



# IBTR Example

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- Vassil & Venetka Marinov v. Wabash Twp. Assessor (Tippecanoe County) 3/1/06
  - Taxpayer provides an appraisal dated 12/9/03; a Circuit Court determination dated 6/29/04; and an appraisal dated 11/21/06.
  - Assessor questions the credibility of this evidence and wins the appeal.



# IBTR Example

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- Regardless of the taxpayer's method used to show property's market value-in-use, a 2006 assessment must reflect the value of the property as of January 1, 2005.
- Taxpayers who present evidence of value relating to a different date must provide some explanation about how it demonstrates, or is relevant to, the subject property's value on January 1, 2005.



# IBTR Example

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- Donald Elliott, Jr. v. Marshall Co. Assessor
  - Taxpayer owns multiple parcels on Lake Maxinkuckee. He appeals the calculations made on only one of those parcels.
  - Assessor contends the property is correctly assessed, challenges taxpayer's arguments, and wins.



# IBTR Exemption Example

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- Circle G Saddle Club v. Grant Co PTABOA
  - Circle G is a not-for-profit club who has always received an exemption.
  - The PTABOA determined that the property was 100% taxable.
  - The predominant use of the property was not found to be charitable or educational so the property was 100% taxable.



# FAQs

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- Question: Should the Board reschedule a hearing because the taxpayer is not prepared to properly present the necessary evidence?
- Answer: This decision would be left up to the Board; however the taxpayer should be prepared to present a case since it is their appeal so this type of delay should happen rarely.



# FAQs

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- Question: Should the Board visit the properties on appeal?
- Answer: Conducting an on-site inspection would be a rare occurrence when considering the Board's use of time and budgetary constraints.



# FAQs

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- Question: What constitutes a quorum for the Board?
- Answer: IC 6-1.1-28-1 states that a majority of the PTABOA that includes at least one (1) certified level two or level three assessor-appraiser constitutes a quorum.





# FAQs

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- Question: Is the determination based on the majority of quorum or the whole board?
- Answer: IC 6-1.1-28-1(a) states, in pertinent part “Any question properly before the board may be decided by the agreement of a majority of the *whole board.*”



Questions / Comments?



# Contact the Department

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